IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 1909 of 2007()

CMP.9362/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA

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PETITIONER:

DAVIS, 89(A),
CHOONATTUSSERIYIL HOUSE, IRINJALAKUDA,
CHALAKUDY.

BY ADV. DR.K.P.KYLASANATHA PILLAY
SRI.V.SADASIVAN
SRI.M.AYYOOBUKHAN
SMT.SREEDEVI KYLASANATH

RESPONDENTS:

STATE OF KERALA, REP.BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1909 of 2007

Dated this the 26th day of June, 2007

O R D E R

The petitioner, who claims to be the registered owner of a Santro Car bearing Reg.No.KL-08 AB-7276, is now in the possession of the vehicle as per an order passed by the learned Magistrate under Section 451 Cr.P.C. Annexure-A4 is the said order. The petitioner is aggrieved by condition No.4 imposed on the petitioner by the said order. The said condition reads as follows:

> "Petitioners shall not use the vehicle in any public place without the permission of the court, except for the purpose of taking those vehicle for safe custody from the police station, and petitioners shall"

2. That condition was imposed by the learned Magistrate on 03.01.2007 as per a common order passed in CMP.No.9362 of 2006. A period of about 6 months has now elapsed. The short prayer of the petitioner is that the said condition No.4, which obliges the petitioner not to use the vehicle in any public place, may now be deleted.

3. The prosecution has a case that the said vehicle is a stolen vehicle and that miscreants had obtained a damaged vehicle from the insurance company and are making use of all the documents in respect of that damaged vehicle to justify the possession of the stolen vehicle. The relevant numbers of the chasi and the engine have been

tampered with, it is alleged. However, so far no specific or acceptable material has been placed before court to show that the vehicle in question is a stolen vehicle even though that is the theory of the prosecution. The identity of the real owner of the vehicle or the details of such vehicle (which is alleged to be stolen) have not been traced so far. The prosecution is groping in the dark even now about the person from whose possession the vehicle had been stolen. The petitioner laments that though he is a bona fide purchaser and he has complied with all the conditions imposed by the court, he is not able to make use of the vehicle because of the onerous condition referred above. He only prays that the petitioner may be permitted to use the vehicle and the said condition No.4 may now be deleted. The petitioner undertakes to use the vehicle only in accordance with the provisions of the Motor Vehicles Act and Rules.

4. I am satisfied, in these circumstances, that the prayer of the petitioner is most reasonable, fair and just. It is of crucial importance to note that the prosecution has no case that the petitioner is not a bonafide purchaser or that he has anything to do with the crime committed by whoever it be. The petitioner is not arrayed as an accused also.

5. In these circumstances, I am satisfied that condition No.4 can be deleted with the rider that the petitioner must use the vehicle in strict compliance with the Motor Vehicles Act and Rules.

6. This Crl.M.C is, accordingly, allowed to the above extent.

(R.BASANT, JUDGE)

rtr/-